

Oral History, IRB and Information Risk: A Response to the Federal Proposal

As some of you may know, the federal government has requested comment on proposed changes to the Common Rule, which regulates research on what are termed “human subjects.” Comments are due **October 26**. The proposed changes seem to be a very mixed bag for oral history and history—offering both an [opportunity](#) to address past concerns about the effect federal regulations, and hence IRB review, have on oral history and potentially [new problems](#) for history under the rubric of “information risk.”

The proposed changes offer a significant opportunity to weigh in on their effect on history and oral history. For more background on human subjects regulations and IRB review as they affect oral history, see [Linda Shopes’s comprehensive 2009 review](#).

In recent weeks, the leadership of the American Historical Association, the Organization of American Historians, the Oral History Association, and others have discussed the proposed changes and after careful deliberation, defined a set of core principles and “talking points” to guide our formal response to them. Last week in Denver, the OHA Council endorsed these talking points, which we offer in the form of a statement that you may wish to use in response to the new federal proposal.

We encourage you to respond as a concerned oral historian, either by submitting the below statement in the comment box in the online form (link below), or offering your own thoughts and observations on the issues raised by the proposal. **The comment period closes on October 26, 2011. We are advised that high volume of response is most critical.** You can also submit your comments by mail to Jerry Menikoff at either jerry.menikoff@hhs.gov or Office of Human Research Protections, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852.

The online submission form has a 2000 character limit so we have drafted a brief version of the statement. [To view the statement in its entirety, click here](#). We strongly encourage you to make your own comments, however, we have also provided the opportunity for you to copy and paste the text below onto the online comment form.

[**Click Here to Access Online Comment Form**](#)

Copy Text Below

1) Regarding whether “certain fields of study [such as history] whose methods of inquiry were not intended to or should not be covered,” we argue for **full exclusion of oral history from the terms of the Common Rule**.

a. Oral history research focuses on eliciting information about particular past experiences and suffers irreparable harm when forced into rubrics developed to treat subjects in a “generalizable” way as demanded by scientific research

b. Oral history research is built on open dialogue with interviewees and cannot be assessed properly within the IRB regulatory framework

c. The proposed “excused” category does not address our concerns. It keeps oral history tied to inappropriate science frameworks and adds the burden of rules designed to prevent “information risk”

d. This is not a plea to be free of professional standards. The Oral History Association maintains its own [Principles and Best Practices](#) governing the conduct of oral histories in an ethically responsible way; but our standards are applied in fundamentally different ways than the scientific procedures and criteria administered by IRBs

2) The implications for oral historians in the proposed rules to limit “information risk” are also of concern.

a. Overregulation of the future use of archival or public-use data can inhibit our understanding of the past, including data that would hold scholars accountable for misuse of research subjects

b. Oral history protocols already mandate signed releases by interviewees, in which they state explicitly the terms by which the interview can be used in the future.

c. The federal proposal-and specifically the application of HIPAA rules to non-medical research-reflects the danger of a "one size fits all" approach

3) History and Oral History were never envisioned as falling under these rules. This review offers an opportunity to correct the misapplication of IRB authority.

Related Links:

Zach Schrag's IRB blog, which includes many, detailed comments on proposed changes; Zach is the author of *Ethical Imperialism: Institutional Review Boards and the Social Sciences, 1965-2009*. - <http://www.institutionalreviewblog.com/>

American Association of University Professors - <http://www.aaup.org/AAUP/newsroom/2011+Web+Highlights/IRBnprm.htm>.